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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

MUR 6602
MATT MOORE
MOORE FOR ALASKA
AND CAROLYN H. COVINGTON,
AS TREASURER

CASE CLOSURE UNDER
THE ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances, and where appropriate, to find no reason to believe. The Office of General Counsel has determined that MUR 6602 should not be referred to the Alternative Dispute Resolution Office.

The Office of General Counsel has scored MUR 6602 as a low-rated matter.¹ For the reasons set forth below, the Office of General Counsel recommends that the Commission find no

¹ The EPS rating information is as follows:
from Matt Moore and Moore for Alaska Filed: July 20, 2012.

1 reason to believe that the respondents violated the Act with regard to the allegations in
2 MUR 6602.

3 Complainant Cathie Lynn Russell alleges that Matt Moore, an unsuccessful candidate in
4 the Democratic primary election for Alaska's at-large congressional seat, failed to file — or
5 timely file — a Statement of Candidacy, and that his committee, Moore for Alaska and
6 Carolyn H. Covington in her official capacity as treasurer (the "Committee"), failed to file
7 disclosure reports and failed to open and designate a committee bank account.²

8 **Committee Registration and Filing Disclosure Reports**

9 The Complaint asserts that Matt Moore did not register³ as a candidate for the House of
10 Representatives and his Committee did not file disclosure reports for "[the] last quarter." Compl.
11 at 1. The Response asserts that Moore's Statement of Candidacy (FEC Form 2), dated April 19,
12 2012, was received by the Commission on April 26, 2012. Resp., Attach. Thus, Moore had
13 already filed a Form 2 (Statement of Candidacy), prior to the submission of the Complaint (June
14 28, 2012) in this matter.

15 A person becomes a candidate when, *inter alia*, he or she has received contributions or
16 made expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2)(A). A contribution
17 includes any loan made by any person for the purpose of influencing any election for Federal
18 office. 2 U.S.C. § 431(8)(A)(i). Once a person becomes a candidate, he or she must file both a

² The Complaint also makes several allegations that are not within the Commission's jurisdiction, such as failing to file candidacy documents with the state of Alaska and failing to acquire a tax ID number from the Internal Revenue Service. See Compl. at 1. Therefore, the Office of General Counsel has not made any recommendations concerning these issues.

³ The Complaint specifically alleges that "Matt Moore has not file with the house of representative [sic] and has no candidate id number." Compl. at 1. This allegation misconstrues the procedures for generating a candidate identification number, which is processed through the Commission once a candidate files a Form 2 (Statement of Candidacy). Moore indicated in his Response that he received his candidate identification number on May 5, 2012, after filing his Form 2 with the Commission. Resp. at 2.

1 Statement of Candidacy within 15 days of becoming a candidate and a Statement of Organization
2 within 10 days after designation with the Commission. See 2 U.S.C. §§ 432(e)(1), 433(a).

3 Based on the Committee's disclosure reports, Moore appears to have become a candidate
4 on April 23, 2012, when he loaned his Committee \$10,000. See July 2012 Quarterly Report,
5 filed July 12, 2012. Thus, the Statement of Candidacy was timely filed. See Statement of
6 Candidacy (filed April 19, 2012). The Committee also timely filed a Statement of Organization
7 that is post-marked April 27, 2012. Resp., Attach. Therefore, due to the filing dates of the
8 Statement of Candidacy and Statement of Organization, as well as the Committee's activity, the
9 first disclosure report that the Committee would have been required to file with the Commission
10 was the July 2012 Quarterly Report, which covers the period from April 1, 2012 through June
11 30, 2012. Accordingly, the Committee timely filed its first required disclosure report (i.e., July
12 2012 Quarterly Report) with the Commission on July 12, 2012.⁴

13 The Complaint also claims that without a tax identification number the Committee could
14 not legally open a bank account for the campaign. Compl. at 1. The Response attaches the
15 Committee's unsigned IRS Form SS-4, which the Committee claims was its application for an
16 Employer Identification Number. Resp. at 1; Resp., Attach. The Act requires political
17 committees to designate a depository institution, which shall be listed on the Statement of
18 Organization. 2 U.S.C. § 431(h)(1); see also 11 C.F.R. § 102.2(a)(1)(vi). In this case, the
19 banking information was reported on the Committee's Form 1 and therefore the Committee
20 satisfied its statutory and regulatory requirements.

⁴ The Committee did not file its 2012 Year-End Report until April 10, 2013. The Reports Analysis Division sent the Committee a Failure to File notification on February 15, 2013. Additionally, the Committee filed a Termination Report on November 6, 2012. We make no recommendation as to these reports.

Reporting Receipts

The Complaint alleges that Matt Moore received donations prior to his state of Alaska filing date by at least 60 days, including when he attended the “Mat-Su Dem” event in February 2012. Compl. at 1. The Complaint provides no additional information about the event or Moore’s alleged attendance.⁵ In his Response, Moore states that he “did not attend any Mat-Su Democratic event in February 2012,” but “did attend the Egan Dinner hosted by the Mat-Su Democrats on March 16, 2012. . . .” Resp. at 2. Moore states that he neither solicited nor accepted donations at the Egan Dinner but did introduce himself and announced that “it was [his] ‘intention’ to run . . . for Congress.” *Id.* Absent any factual assertions to the contrary, there is no indication that any funds were solicited or accepted by Moore at the Egan Dinner.⁶

The Complaint further alleges that Matt Moore has “deliberately withheld reporting contributions to his campaign” in violation of the Act. Compl. at 2. In his Response, Moore states that he did not “deliberately nor willfully withhold contribution information” and refers to the Committee’s disclosure reports. Resp. at 2. The Complaint provides no substantiation for these claims.

⁵ According to public information, Matanuska-Susitna (“Mat-Su”) Democrats is “a regional organization sponsoring activities to strengthen the role of the Democratic Party within the boundaries of the Mat Su Borough, plus the communities of Peters Creek and Chugiak.” <http://www.matsudemocrats.org/about-us.html> (last visited March 21, 2013).

⁶ The Complaint also alleges that Moore placed an advertisement in the event booklet of the Alaska Democratic State Convention (“Convention”) held from May 11-13, 2012, and that the ad was placed prior to his filing date with the state of Alaska. Compl. at 1. In its Response, the Committee submitted copies of a partial invoice and receipt, both dated May 9, 2012, which are purported to be confirmation of the ad buy purchase for the event booklet. Resp., Attach. In addition, the Committee submitted a copy of its “State of Alaska Declaration of Candidacy U.S. Congress” application, which was also filed on May 9, 2012. *Id.* Although the ad may have been placed on the same date as the Committee’s state application, it is the filing date with the Commission that triggers the Act’s requirements. See 2 U.S.C. §§ 432(e)(1), 433(a), 434(a)(2)(A)(iii).

In addition, the Complaint alleges that Moore attended the Convention with campaign materials that were designed and produced prior to his FEC filing date. Compl. at 2. As with the previous allegation, the Committee has provided documents confirming its registration dates with the proper entities. Resp., Attach. There is no allegation that the campaign materials were used or distributed before Moore became a candidate.

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In sum, based on the Complaint, the Response, and publicly available information, it appears that Matt Moore properly registered his principal campaign committee, Moore for Alaska, with the Commission, and timely filed his Statement of Candidacy. Additionally, it appears that the Committee filed all of its required disclosure reports at issue in this case. Therefore, the Office of General Counsel recommends that the Commission find no reason to believe that Matt Moore and Moore for Alaska and Carolyn H. Covington in her official capacity as treasurer violated the Act with regard to the allegations in this matter. Further, the Office of General Counsel recommends that the Commission approve the attached Factual & Legal Analysis and the appropriate letters, and close the file.


RECOMMENDATIONS

1. Find no reason to believe that Matt Moore and Moore for Alaska and Carolyn H. Covington in her official capacity as treasurer violated the Act with regard to the allegations in MUR 6602;
2. Approve the attached Factual & Legal Analysis and the appropriate letters; and
3. Close the file.

Anthony Herman
General Counsel

4/29/13
Date: _____


BY:



Gregory R. Baker
Deputy General Counsel

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Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

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